

RECEIVED
CENTRAL FAX CENTER

OCT 04 2005

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Date of Deposit: Oct. 4, 2005

Typed or printed name: Tanya F. Paullin

Signature: 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: B. Poppenga et al.

Serial No: 10/006,692

Filed: December 10, 2001

Title: System And Method For
Efficiently Installing And Configuring
Device Drivers In Managed
Environments

Attorney

Docket Number: 10012893-1

Group Art Unit: 2122

Examiner: M. Yigdal

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the final rejection in the above identified application. No amendments are filed with this request.

This request is filed with the Notice of Appeal.

The review is requested for the reasons stated in the following Remarks.

REMARKS SUPPORTING REQUEST FOR REVIEW

The claims stand rejected under Section 102 as being anticipated by Chiloyan (2002/0083228).

Proposed Amendment After Final

After the final action, Applicants sought to amend Claims 14 and 19 to add the limitations of dependent Claims 15 and 20, respectively. Accordingly, Applicants sought to cancel Claims 15 and 20. Applicants also sought to amend Claims 24 and 26 to correct an error in the original language — "device" should have been "devices." The Examiner declined to enter the proposed amendments, asserting the proposed amendments change the scope of the claims.

10/006,692

10012893-1

Request For Pre-Brief Review

--1--

With regard to Claims 14 and 19, an amendment canceling claims may be made after the final action. Rule 116(b)(1). The practical effect of the proposed amendment is the cancellation of Claims 14 and 19 and the rewriting of Claims 15 and 20 as independent claims. Applicants will, if the Office prefers, cancel Claims 14 and 19 directly and rewrite Claims 15 and 20 as independent claims.

With regard to Claims 24 and 26, the recitation of "the device" at line 11 of each claim as originally presented is an obvious scrivener's error, if not a typographical error. The error was not detected until after the final action. Each claim as originally presented recites at line 11 "installing the acquired driver on the device identified by the acquired identification number." The acquired identification number, however, identifies a plurality of devices -- "associating a group of numbers each identifying a *plurality of devices* ..." and "acquiring the number identifying one of the *plurality of devices*...." Claims 24 and 26 at lines 1-3 (emphasis added). Hence, the proposed amendment to Claims 24 and 26 does not change the scope of the amendment. Rather, the proposed amendment corrects a lack of antecedent basis that might otherwise be deemed to render the claim indefinite.

An after-final amendment may be entered if it presents the claims in better form for consideration on appeal. Rule 116(b)(2). The proposed amendment to Claims 24 and 26 does just that, correcting an obvious mistake. Even assuming the amendment touches the merits, it may still be entered upon a showing of good and sufficient reason why the amendment is necessary (to correct the mistake and the lack of antecedent basis) and was not presented earlier (it was not detected until after the final action). Rule 116(b)(3).

Claims 15 and 20 – Associating Identification Numbers With The Customer

Claim 15 requires associating discrete identification numbers for each of a plurality of devices installed in a customer environment with the customer; associating information for configuring a driver for each of the devices installed in the customer environment with the identification number for the device; and storing the identification numbers and associated configuration information together at a location remote from the customer environment and accessible to the customer environment. Claim 20 is a computer medium counterpart to Claim 15 and contains similar limitations.

10/006,692

10012893-1

Request For Pre-Brief Review

-2-

Chiloyan teaches querying a device to obtain a "device descriptor" that includes a "vendor ID and a product ID" used to locate a "network address" in a database that, apparently, associates the vendor ID and/or the product ID with the network address. The appropriate device driver is downloaded from the network address or another address linked to the network address. Chiloyan, paragraphs 0035-0037 and 0041.

Chiloyan does not disclose any association between the device identification numbers and the customer. The Office argues in the Advisory Action that Chiloyan teaches this limitation at paragraph 0043, lines 1-4 and 10-12 by determining "(a) whether the individual customer has already installed that device..." and "(b) whether the individual customer has set a flag for that device...."

First, Chiloyan does NOT determine whether the individual customer has already installed the device. Rather, Chiloyan determines whether the correct device driver is already installed on a computer hosting the device. Chiloyan paragraph 0043, lines 1-3. Second, neither determination (a) or (b) has anything to do with the user of the device or the computer or the customer environment in which they are installed – Chiloyan doesn't care which customer has the device or who is using it. More importantly, Chiloyan has no way of knowing which devices are installed in a particular customer environment because he does not associate device IDs with the customer.

Applicants acknowledge that downloading a driver to a computer hosting the device necessarily involves identifying the location of the computer. It may be assumed also that someone uses the computer and the device. Indeed, there may be many users of the computer and the device within a single customer environment. And, in some cases, the customer and the user may even be the same person. Knowing the location of a host computer (or the device itself) for which there is a user, however, does not constitute associating a device ID with the customer in whose environment the device is installed. This information does not even constitute associating a device ID with the user.

Finally, it should be noted that Chiloyan paragraph 0043 teaches accessing "the network address" for advertising materials rather than a driver in the event the appropriate device driver is already installed on the host computer. "The network address" is the same network address used to access the device driver. The same

10/006,692

10012893-1

Request For Pre-Brief Review

-3-

procedure is used for downloading the advertising material and/or downloading a driver – the device is queried for a device descriptor that includes a vendor ID or a product ID used to locate the network address and then this network address is accessed to download the advertising material. Nowhere in this process is any association made between any kind of device ID and the customer. Nor is any such association required to complete Chiloyan's download procedure. The host computer simply goes out to "the network address" and downloads a driver or the advertising material (unless the user chooses to suppress the advertising material).

Further with regard to Claims 18 and 23, Chiloyan does not disclose storing the identification numbers and associated configuration information in a first database and storing the associated device drivers in a second database. In rejecting Claims 18 and 23, the Office asserts only that both items (configuration information and drivers) are stored "in a database on a server" and "on the database server." The Examiner argues in the Advisory Action that Claims 18 and 23 do not require that the first and second databases are different databases. Applicants disagree. If both groups of information were stored in the same database, then reference to a first database and a second database would be meaningless. The Examiner has, therefore, read these limitations out of the claims. Applicants respectfully submit that it is not necessary to recite a second something "*different from the first something*" when reciting discrete first and second somethings. If the Office disagrees, then it should plainly state its view of the law on this important matter.

Claims 24 and 26 – Associating Group IDs With The Customer

Claim 24 requires associating a group of numbers each identifying a plurality of devices installed in a customer environment with the customer. Claim 26 is a computer medium counterpart to Claim 24 and contains similar limitations. As noted above for amended Claim 15, Chiloyan does not disclose associating device identification numbers with the customer.

Claim 24 also requires installing a device driver on the plural devices identified by one of the identification numbers. In Chiloyan, by contrast, a single device is queried for vendor or product ID and then, based on that ID, a driver is downloaded for the device. Chiloyan, paragraphs 0035-0037 and 0041. Chiloyan does not mention downloading a driver for multiple devices. Even if it is assumed,

for purposes of argument only, that a vendor ID or product ID in Chiloyan identifies plural devices in a customer environment, there is no indication at all in Chiloyan that any such ID is used to acquire a driver based on that ID and then install that driver on plural devices. On the contrary, Chiloyan clearly teaches querying a single device when it is installed to obtain the ID and thereafter acquiring and installing the driver for that single device. Chiloyan, paragraph 0036.

Respectfully submitted,

By 

Steven R. Ormiston
Registration No. 35,974
(208) 433-1991 x204